

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In Re:) Case No. 14-47833 399
)
MARCUS E. ARMANI,) Chapter 13
) Original Confirmation Hearing set for:
Debtor.) December 3, 2014 10:00a.m.

**UNITED STATES OF AMERICA’S OBJECTION TO
CONFIRMATION OF DEBTOR’S CHAPTER 13 PLAN**

The United States of America objects to the debtor’s Chapter 13 Plan (Doc. 8) for the reasons stated below:

1. On January 20, 2006, in the United States District Court for the Eastern District of Missouri, the Honorable E. Richard Webber sentenced defendant Marcus E. Armani to a term of 5 years probation, and restitution in the amount of \$43,578.26 in Case No. 4:05CR00602 ERW. This judgment was entered on January 20, 2006. *See USA v. Marcus Ernest Armani*, No. 4:05CR00602 ERW, Docket No. 16.

2. Debtor/defendant failed to provide any notice to the United States Attorney’s Office of this pending bankruptcy, as he only listed the United States District Court, and improperly termed it as credit card restitution. (Doc. 1, p. 19, Case No. 14-47833-399). The United States learned of this pending bankruptcy when a Financial Litigation Unit paralegal was reviewing the *Daily Record*, and saw that the debtor/defendant’s bankruptcy action had been filed. Additionally, debtor/defendant listed an incorrect amount of restitution owed to the United States.¹ (Doc. 1, p. 19, Case No. 14-47833-399). As of October 15, 2014, the correct

¹ Debtor/defendant incorrectly lists the “United States District Court,” rather than the United States of America, among the creditors in the Voluntary Petition. (Doc. No. 1, p. 19, Case No.

amount of criminal restitution owed by debtor/defendant to the United States is \$21,667.08.
(Claim No. 12).

3. The proposed plan is not feasible. It does not allow for any payments at all, let alone *full* payment of the criminal restitution owed to the United States, a **secured creditor**, in regular installments, that are completed within five years of the Petition date. Criminal restitution is not dischargeable. 11 USC §§ 523(a)(13), 1325, and 1328(a)(3).

4. The proposed plan does not provide for retention of the United States' criminal restitution lien. 11 U.S.C. § 1325(a)(5). Because the plan fails to provide for the payment of the secured claim of the United States, it should not be confirmed. *Id.*

5. The proposed plan provides inadequate remedies in the event of default. Should default occur, the plan will impose further delay and expense. In the event of default, the United States should be allowed to proceed with restitution enforcement as it normally would and should have all rights it would have had but for the bankruptcy filing of debtor/defendant.

WHEREFORE, the United States of America prays that its objections be granted, that the plan not be confirmed, and for such other and further relief to which it may be entitled.

14-47833-399). Defendant's restitution is owed to the United States of America. (Doc. 16, Case No. 4:05CR00602 ERW).

Respectfully submitted,

RICHARD G. CALLAHAN
United States Attorney

/s/ Jane Rund

By

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ATTORNEYS FOR UNITED STATES
OF AMERICA

CERTIFICATE OF MAILING

I certify that on this 30th day of October 2014, a true and correct copy of the foregoing document was filed with the Court using the Court's CM/ECF system and was served upon each attorney of record via ECF:

William H. Ridings, Jr.
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I hereby that on this 30th day of October 2014, a true and correct copy of the foregoing document was filed with the Court using the Court's CM/ECF system and was mailed, via United States Postal Service, first-class to the following:

Marcus E. Armani
P. Box Box 54
Glencoe, MO 63038

Debtor/Defendant

/s/ Jane Rund

JANE RUND #47298 MO
Assistant United States Attorney